

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

SHANNON BRUCE MORLEY,

Plaintiff,

v.

BENTON COUNTY JAIL, DR. B.
WATSON AND NURSE VAL,

Defendants,

NO: 13-CV-5110 -TOR

ORDER DISMISSING COMPLAINT

By Order filed November 13, 2013, the Court directed Mr. Morely to show cause why this action should not be dismissed for failure to exhaust his administrative remedies. The Court cautioned Plaintiff that if he failed to show cause, this case would be dismissed. Plaintiff has filed nothing further in this action. Therefore, for the reasons set forth in the Court's prior Order (ECF No. 5), the Complaint is dismissed without prejudice for failure to exhaust. 42 U.S.C. § 1997e(a).

Pursuant to 28 U.S.C. § 1915(a)(3), "[a]n appeal may not be taken *in forma pauperis* if the trial court certifies in writing that it is not taken in good faith." The

1 good faith standard is an objective one, and good faith is demonstrated when an
2 individual “seeks appellate review of any issue not frivolous.” *See Coppedge v.*
3 *United States*, 369 U.S. 438, 445 (1962). For purposes of 28 U.S.C. § 1915, an
4 appeal is frivolous if it lacks any arguable basis in law or fact. *Neitzke v. Williams*,
5 490 U.S. 319, 325 (1989).

6 The Court finds that any appeal of this Order would not be taken in good
7 faith and would lack any arguable basis in law or fact.

8 **ACCORDINGLY, IT IS HEREBY ORDERED:**

9 1. Plaintiff’s Complaint is **DISMISSED** without prejudice for failure to
10 exhaust.

11 2. Plaintiff’s *in forma pauperis* application (ECF No. 2) is, therefore,
12 **DENIED.**

13 The District Court Executive is directed to enter this Order, enter judgment
14 of dismissal, forward copies to Plaintiff, and **CLOSE** the file.

15 **DATED** December 23, 2013.



Thomas O. Rice
THOMAS O. RICE
United States District Judge